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Peace & Security Council Report

Will the new PSC do the right thing for Africa?

Fifteen members were elected to the African Union (AU) Peace and Security Council (PSC) at its recent summit in Addis Ababa. Five will serve for three years, while 10 will be on the Council for two years.

North Africa members are Morocco (three years) and Tunisia. West Africa has Nigeria (three years), The Gambia, Ghana and Senegal. Cameroon (three years), Republic of Congo and Burundi represent Central Africa. East Africa has Djibouti (three years), Uganda and Tanzania. Namibia (three years), South Africa and Zimbabwe were elected for southern Africa.

The summit noted its concern that all five regions of the continent were experiencing turmoil. This includes security and political tensions and violence at intra- and interstate level, terrorism and violent extremism, transnational organised crimes and border disputes. Also mentioned were political governance and democratic transition, sectarian and resource conflicts, secessionist agitations, maritime insecurity and strained diplomatic relations. Recognising these worrying trends means that the AU, particularly the PSC, must be more decisive in deliberations and decisions.

The PSC and regional economic communities have not created effective synergies in their governance, peace and security responses

At least four main dangers threaten the capacity of the Council to make a positive impact. First, the PSC continues to be largely reactive rather than proactive. It is also bogged down by bureaucratic and review processes. In addition, the Council and regional economic communities (RECs) have not created effective systematic synergies in their governance, peace and security responses. Lastly, the perennial question of funding has not yet been sustainably resolved.

Fierce competition for seats

There was notable competition in these elections, with 22 initial candidates, including seven candidates for three eastern region seats. Central Africa had five candidates for three seats. Candidates on voting day numbered 19. Some seats required several rounds of voting before a candidate was elected. Interest in PSC seats is evident, linked to recognition of the Council's important mandate, which, if used more effectively, can play a crucial role in continental governance, peace and security.

Current PSC Chairperson

HE Jean Njeri Kamau, Kenya's Ambassador to the Federal Republic of Ethiopia and Permanent Representative to the African Union.

PSC members

Algeria, Benin, Burundi, Cameroon, Chad, Djibouti, Egypt, Ethiopia, Ghana, Kenya, Lesotho, Malawi, Mozambique, Nigeria, Senegal

Chart 1: Candidates for PSC membership in February 2022

Region	Number of available seats	Candidates	
Central	Three	Burundi	Two-year term
		Cameroon	Three-year term
		Chad	Three-year term
		Equatorial Guinea	Two-year term
		Republic of Congo	Two-year term
East	Three	Djibouti	Three-year term
		Eritrea	Three-year term
		Ethiopia	Two-year term
		Mauritius	Two-year term
		Somalia	Three-year term
		Tanzania	Two-year term
		Uganda	Two-year term
North	Two	Morocco	Three-year term
		Tunisia	Two- year term
West	Four	Burkina Faso	Two-year term
		The Gambia	Two-year term
		Ghana	Two- year term
		Nigeria	Three-year term
		Senegal	Two-year term
South	Three	Namibia	Three-year term
		South Africa	Two-year term
		Zambia	Two-year term

Of the 15 members, Ghana, Nigeria, Senegal, Cameroon, Burundi and Djibouti were re-elected. Nine are new members that have all had a previous stint on the Council, although Tunisia is returning after a hiatus of more than 10 years.

The re-election of six candidates is likely to contribute to continuity on the Council, which should help with some of the outstanding dossiers of the past two or three years. Since meeting readouts are not a PSC practice, some members are relied on to carry institutional memory. And Nigeria, which has been on the Council uninterruptedly since 2004, would probably be best placed to carry that memory.

Mixed membership bag

The PSC's dynamics will be shaped by its composition and influenced by the internal challenges and regimes of members.

Chart 2: New PSC members

Country	Term	Expiry of mandate	Region
Burundi*	Two	31 March 2024	Central Africa
Cameroon*	Three	31 March 2025	Central Africa
Republic of Congo	Two	31 March 2024	Central Africa
Djibouti*	Three	31 March 2025	Eastern Africa
The Gambia	Two	31 March 2024	Western Africa
Ghana*	Two	31 March 2024	Western Africa
Morocco	Three	31 March 2025	Northern Africa
Namibia	Three	31 March 2025	Southern Africa
Nigeria*	Three	31 March 2025	Western Africa
Senegal*	Two	31 March 2024	Western Africa
South Africa	Two	31 March 2024	Southern Africa
Tanzania	Two	31 March 2024	Eastern Africa
Tunisia	Two	31 March 2024	Northern Africa
Uganda	Two	31 March 2024	Eastern Africa
Zimbabwe	Two	31 March 2024	Southern Africa

**Re-elected to the PSC*

From its new composition, it is not immediately clear how the Council will swing on difficult issues. Will it make strong pronouncements and decisions in the discharge of its peace and security mandate? It is also uncertain if countries will continue to outmanoeuvre each other to allow tabling of only certain issues or to block other issues, particularly country-specific ones. Perhaps a critical mass of countries will emerge to give new impetus to PSC actions.

The Council is effectively a mixed bag of members that might use their power effectively to address Africa's governance, peace and security challenges, or seek to retain the status quo. South Africa, for instance, has indicated that it will ensure implementation of the AU's frameworks and instruments. During his inaugural speech as chair of the AU for 2022, Senegal President Macky Sall mentioned that the continent is facing a 'peace and security emergency'.

It is uncertain if countries will continue to outmanoeuvre each other to allow tabling of only certain issues

In that sense, both South Africa and Senegal may form the backbone of a critical mass with the commitment and resolve to address the continent's governance issues. This would be welcome given the PSC's need to transcend bloc mentality and create synergies across regional groupings to tackle priorities.

The implications of the different governance, peace and security scenarios are essentially two-fold. Should the status quo prevail and the RECs not step up to the plate (not all will), AU responses may continue to have little impact on continental conflicts and crises.

On the other hand, a more decisive, consistent and coherent PSC may give the continent a fighting chance. Although the PSC alone cannot resolve all the complex peace and security threats, it can contribute more significantly to finding solutions to insecurity in Africa. It will be greatly pressured to be more proactive and decisive in the next few years.

West Africa, despite violent extremism and recent military coups in Mali, Guinea and Burkina Faso, is sending to the Council countries seen as addressing internal governance challenges. The Economic Community of West African States is, in fact, reviewing its protocol on democracy and good governance.

Although the PSC alone cannot resolve all the complex peace and security threats, it can contribute more significantly to finding solutions to insecurity in Africa

This is expected to lead to amendments to better tackle unconstitutional (civilian and military) changes of government and inadequate governance. Southern and western Africa may, therefore, be less reluctant to place on the agenda contested matters such as Ghana did in 2021 with the Ethiopian situation.

Conversely, the AU and some RECs, including the Southern African Development Community, have not seen eye-to-eye on several occasions. The possibility that some Council members could table contested issues may be offset by differing views or competition between the AU and a REC. Subsidiarity and the claim to sovereignty may also remain obstacles to an active, let alone decisive, PSC.

The Council may be closer to tabling controversial issues or there may be more of the same as seen at the PSC in 2021. The central and northern regions may continue to counterbalance a more decisive and bold Council.

Coups and instability among 2022 hurdles

Despite the above dynamics, the PSC will, in 2022, be called on to be more proactive and decisive in addressing the continent's governance, peace and security challenges. It will have to contend with the 'transitions' in Burkina Faso, Chad, Guinea, Mali and Sudan. The coups in West Africa (four in the past two years) create the fear of more coups in the region, as evidenced by the attempted coup in Guinea Bissau on 1 February.

The Council will have to continue to deal with instability in the Central African Republic, South Sudan, Libya and Somalia. It will also be expected to address violent extremism across the continent as the need grows to strengthen Africa's peace, security and governance architectures.

Senegal

CHAIR OF THE AU IN 2022

Will the AU Summit decisions address governance deficits?

Decisions taken at the February 2022 African Union (AU) Summit has provided opportunities that could enable the AU to address governance deficits driving much of the continent's violence and conflict. The summit has prioritised the creation and strengthening of mechanisms to tackle the root causes of unconstitutional changes of government, structural vulnerabilities and governance issues that lead to violent conflict.

It was decided to revitalise the Country Structural Vulnerability and Resilience Assessments (CSVRAs), Country Structural Vulnerability Mitigation Strategies (CSVMS), and the Africa Peer Review Mechanism (APRM). Instruments to prevent unconstitutional change of government will be reviewed, including the Lomé Declaration and African Governance Architecture (AGA). Budget will be allocated to establish a governance support fund to implement these processes.

If fully implemented, these decisions could reinforce the AU's conflict prevention capability, shifting its usual firefighter role that has often seen it respond to conflicts after the fact. By helping member states mitigate the root causes of conflicts, the AU will be better placed to prevent violent manifestations of conflicts.

Summit decisions on peace and security

In 2021, the AU Peace and Security Council (PSC) met more than 80 times to discuss crises and conflicts in Africa. Governance weaknesses at the root of these crises weren't, however, sufficiently addressed.

Following the presentation of the PSC annual report to the assembly, the summit took positions on 15 crises. These included internal conflicts in Cameroon and Ethiopia, difficult political transitions in Sudan, Chad, Mali, Burkina Faso and Guinea, and peace processes in Libya, South Sudan and Central African Republic.

However, a clear roadmap was provided for the AU's continued engagement and support for only Somalia, South Sudan, Chad, the Comoros, Libya and Mozambique. On other situations, the summit encouraged stakeholders to act swiftly to resolve issues themselves.

In Ethiopia and Cameroon, a cessation of hostilities was recommended and stakeholders urged to find a negotiated political solution to the conflicts. For countries that have experienced military coups in the past year, including Sudan, Mali, Guinea and Burkina Faso, a zero tolerance stance was adopted on unconstitutional changes of government. Heads of state demand urgent restoration of normal constitutional order in these countries.

If fully implemented, these decisions could reinforce the AU's conflict prevention capability

The summit also focused on terrorism and violent extremism, and the nexus among climate, peace and security. While the draft summit decisions and PSC annual report allude to the root causes of violent conflicts, particularly governance deficits in member states, these issues are not discussed in detail. This is because they fall within the 'internal affairs' of member states protected under the AU's principle of sovereignty.

The draft decisions, however, indicate that heads of states are grappling with how to approach extreme manifestations of governance deficits and structural vulnerabilities, while respecting state sovereignty. It seems they have acknowledged that the AU needs a new approach in responding to unconstitutional changes of government, the spread of terrorism and violent extremism, and the negative impact of state fragility across multiple member states.

What's new?

The summit proposed new mechanisms and the revitalisation of existing ones to allow the AU to address governance concerns and prevent conflicts without the PSC having to discuss member states' internal affairs. The first priority is unconstitutional change of government. The assembly has recognised the need to review the Lomé Declaration and AGA to address this phenomenon and analyse its causes and impact.

The summit has also acknowledged that attempts to extend term limits through constitutional amendments have caused instability in many countries. It will, therefore, form a high-level hybrid committee of sitting and former heads of state and government to engage incumbents who try to amend national constitutions 'without national consensus'.

The assembly has highlighted the importance for member states to implement the CSVRA/CSVMS. These intend to help states, regional economic communities (RECs) and the AU better understand structural risk factors for conflict and develop a strategy to overcome these sustainably, preventing violent conflicts. The AU Commission has been asked to establish a monitoring and oversight committee including the AU Commission, RECs, the APRM and member states. The committee will facilitate effective coordination, implementation, and monitoring and evaluation of the implementation of these instruments.

The APRM, based in South Africa, will be strengthened, with the assembly having adopted its continental secretariat organisational structure. It has also approved more than US$11 million to hire 114 country, region-focused and thematic experts on different aspects of governance. In addition, the summit endorsed the establishment of a governance support fund to evaluate governance failures, and provide financial and technical support to overcome them.

Opportunities and challenges

Endorsement of these instruments by heads of state reflects buy-in from member states regarding their relevance. Some instruments also have processes driven primarily by heads of state and government, whose clout may advance their execution. Furthermore, the mechanisms will deter the defensive stances of states and their governments when put under scrutiny by the PSC. Rather, they are face-saving approaches that require states to undergo self-evaluation to reach sustainable solutions with the AU's help.

Member states will, moreover, receive both technical and financial support in implementing processes such as the APRM country review and the CSVRA/CSVMS. The summit's endorsement of the monitoring and evaluation mechanism for the AU Master Roadmap of Practical Steps for Silencing the Guns in Africa by 2030 presents another opportunity. It will hold the AU, RECs and states accountable for the implementation of conflict prevention mechanisms.

The extent and urgency of decision implementation will remain the biggest challenge, as most mechanisms are voluntary and participation will depend on member states' goodwill. These instruments may not be implemented, as with already available mechanisms such as the African Charter on Democracy, Elections and Governance, which seeks to address governance challenges in member states.

> The urgency of decision implementation will remain the biggest challenge, as most mechanisms are voluntary

The results also rest on the extent to which incumbents are willing to be self-critical. Thus, instruments may be co-opted to highlight the member state achievements and focus on non-politicised issues rather than major contentious drivers of conflicts. Availability of funds for implementation is another possible obstacle. Implementation is also dependent on coordination among multiple stakeholders, which may be problematic.

While the endorsement of these mechanisms by the summit presents opportunities to enhance the AU's conflict prevention capability, as with previous summit decision, impact will depend on the political will of member states to participate in these processes and their commitment to allocate funds for implementation.

Restructuring of the PSC is on the cards

Northern African countries' request for equitable representation on the Peace and Security Council (PSC) set delegates talking at the African Union (AU) summit on 5 to 6 February. The northern region is comprised of Algeria, Egypt, Libya, Mauritania, Morocco, Tunisia and Western Sahara.

Currently, north Africa has only two seats on the 15-member Council, while west Africa has four and southern, central and east Africa three each. The imbalance, according to northern states stems from a 'temporary' arrangement at the creation of the PSC in 2004 that has yet to be resolved.

Ongoing discussions

The issue was first formally raised at the PSC retreat on its working methods in May 2021, under the chairship of Algeria. It was also mentioned in the Council's annual report. The African Union (AU) Assembly, at the recent summit, noted this and endorsed the conclusions of the PSC retreat on AU reforms.

Summit decisions are not yet public, but it is expected that the AU Commission will be directed to consult with member states to address northern states' concern. An announcement may be made at the 2023 summit, although deep-seated sensitivities and lack of clarity on the issue may see it drag on for some time.

Two options exist. The current number of seats can be redistributed, giving each region three seats. Alternatively, article 5(1) of the PSC Protocol could be amended to increase the number of seats to either 17 or 21. This will bring north Africa in line with the other three regions (except for west Africa), with a 'floating' membership rotating among the five regions. This will ensure the Council retains an odd number of seats to avoid a voting deadlock.

Questions still unanswered

This process is, however, unlikely to address the issue at the heart of the current contestation. This is that the AU has failed to endorse a framework to define the criteria for equitable representation of the five regions. Questions remain over whether the allocated seats should represent the number of member states, the size of the population or other criteria?

If the number of states in a region is taken as a criterion for equitable allocation of seats, then western and eastern Africa regions that have almost the same number of member states, 15 and 14 respectively should get equal number of seats at the PSC. If population size or financial contribution to the AU's budget is taken as a criterion, the redistribution may have to change from time to time.

> The imbalance stems from a temporary arrangement at the creation of the PSC in 2004 that has yet to be resolved

Member states are increasingly competing for a seat as the PSC's importance grows as a mechanism for influencing continental peace and security. Representation will, therefore, continue to be contentious among not only the five regions, but among member states of the same region.

The PSC Protocol clearly stipulates that a member should have the capacity and experience in peace and security to become a member, but this has been largely ignored in favour of rotational principles. The AU should address the criteria for equitable regional representation beyond redistribution of PSC seats. This will not only improve Council dynamics, but may foster better collaboration on substantive peace and security matters.

Not official but in force

Current modalities for the distribution of the 15 PSC seats were developed in 2004. This document was to have been adopted by the fourth ordinary session of the Executive Council in March 2004 but the status of this document is not clear.

A 2016 Executive Council decision on 'the modalities on the implementation of criteria for equitable geographical and gender representation in the AU organs' on the other hand allocated two seats to each region with one floating seat to rotate among the five regions. However, as the total number of seats adds to only 11 seats, it is generally considered that this decision applies to other organs of the AU and not the PSC.

The mechanism for seat allocation for the five regions in the PSC, thus, remains to be officially clarified in a binding decision.

In practice, equitable regional representation has come to mean the distribution of PSC seats based on the 2004 modalities. Two seats were allocated to northern Africa with six members and the west had four seats, comprising 15 members. The central region with nine states, the southern region with 10 and the eastern region with 14 were allocated three seats each.

Thus, member states, particularly from northern Africa, argue that the current seat allocation is not based on an equitable distribution of available PSC seats. This is regardless of what criteria is said to have been used by the election modalities.

Why only two seats for the north?

African heads of state adopted the protocol establishing the PSC in 2002, effective in 2003. At the time, only Libya and Algeria subscribed to the protocol from among the six northern African states. Morocco was not yet an AU member, having only joined in 2017.

According to protocol rules of membership, only countries that adopted the protocol were eligible to run for election onto the PSC when it became functional in 2004. Thus, only Libya and Algeria joined the Council in that year.

Several northern member states argue that the decision to 'give' their third seat to western Africa was based on a 'gentlemen's' agreement between the deans of the northern and western regions, at the time from Nigeria and Algeria. The question is whether this holds any legal basis for continuation of the current mechanism for seat allocation.

Proposal for PSC restructuring

Northern states have reached consensus that trying to reclaim the extra seat from western Africa is futile for two reasons. First, they believe the proposal will not gain support from most AU member states. Secondly, they do not want to create a bad working relationship with western African countries even if they succeed.

They propose one of two options. The first involves adding two seats at the PSC, increasing the total number to 17 members instead of the current 15. As per this proposal, one seat would be given to the northern region, and the other would rotate among the four regions every two years. The second is to add six more seats, creating a 21-member PSC. One seat would be added for each region, while another would rotate among the five regions. Each proposal would retain the odd number of seats needed should an issue be put to the vote.

The challenges ahead

While the need to restructure the PSC has garnered general support, the proposal from northern Africa may not be acceptable to all member states. Opponents question the need to amend the PSC Protocol to restructure the PSC. They argue that an amendment would involve not only AU legal processes, but would require adoption by 55 member states. These countries would prefer that the third seat be returned to northern Africa and the current number of seats retained.

Member states argue that the current seat allocation is not based on an equitable distribution of available PSC seats

Several western African states are uneasy about a restructure that involves losing the fourth seat. The additional seat has allowed the region to make Nigeria a *de facto* permanent member of the Council, and has simplified consensus-based rotation of PSC membership among the remaining countries. Restructuring would diminish the influence of western Africa, particularly the promotion of Economic Community of West African States positions at the PSC, with one fewer seat at the Council.

It will not be easy for member states to reach consensus on the issue. Unless the summit decision is clear about the deadlines to end consultations, resolution may also take years. Consultation should ensure that the 2004 modalities for PSC seat distribution or a revised version be officially adopted to put to rest concern over regional representation.

Africa and Europe must agree on the same shade of green

Energy is the key to Africa's development and green transition. Approximately 600 million Africans and 10 million medium-sized enterprises lack access to electricity and millions of households use charcoal, wood and kerosene for cooking. Current charcoal demand clears an estimated 3% of Africa's forested area a year.

The green transition is one of five key areas for the Africa-European Union (EU) Partnership, established in 2020 to improve coordination between the two continents. Energy transformation is critical in this transition.

But are Europe and Africa on the same green page? Ahead of the Sixth African Union (AU)–EU summit in Brussels, the question was asked whether discussions lead to concrete, mutually beneficial cooperation? The AU had been reluctant to prioritise the issue at the summit, as it is unsure whether Europe's proposals are in the continent's interests.

On 10 February, the EU announced a €150 billion investment plan for Africa to focus on the green transition, including renewable energy generation and protecting biodiversity. But the details and implications of Europe's energy plans for Africa are ambiguous and could negatively impact many countries on the continent.

The EU accused of double standards

The energy situations in Africa vary immensely between countries. Some, such as Morocco, Mauritius and Namibia, depend on energy imports and are ripe for renewable energy investment. States with significant renewable energy opportunities and low energy access could leapfrog carbon dependency and become a prototype for green innovation and low-carbon industrialisation.

Others are energy exporters such as Mozambique, Kenya, Tanzania, Ghana, Uganda, Senegal, and Côte d'Ivoire. Many of these countries rely on fossil fuel exports and have recently locked into investments that could risk becoming stranded assets. Proposals to move away from fossil fuels without concrete alternatives concern them.

African leaders are right to worry about what will replace fossil fuel exports if European partners move away from them in their quest for neutrality. The EU has proposed a carbon border adjustment mechanism – a levy on certain imported goods that negatively impacts African exporters. If Europe winds these imports down or imposes trade blockages without replacing them or helping to generate alternatives, there will undoubtedly be economic losers.

Some accuse Europe of double standards. Fossil fuels constitute by far the largest share of EU imports from Africa. Europe also recognises the need to continue investing in gas for its use while ending financing for gas in developing countries.

Much debate over natural gas

Developing new green energy value and supply chains that enable African economies to grow should be an Africa-EU Partnership priority. Some European entities are exploring green hydrogen production in African countries as an alternative to fossil fuel imports. Hydrogen is very energy-intensive.

Many countries rely on fossil fuel exports and have recently locked into investments that could risk becoming stranded assets

If the production of European exports requires energy sources in areas where local African populations don't have energy access, it won't be sustainable. That could cause political and social tension and possibly conflict. Any low-carbon technologies that address Europe's energy needs should add value to Africa.

There has been much debate on Africa's continued natural gas exploration and development, particularly because of the continent's energy needs. The concern is that renewable energies alone aren't sufficient to drive industrialisation. The gas debate should be context-specific and balance countries' economic progress with de-carbonisation.

Green industrialisation

Europe's green transformation relies on raw materials such as cobalt, lithium, nickel and copper. Africa is rich in these resources – 60% of the world's cobalt comes from the Democratic Republic of the Congo. The EU and AU must ensure that competition over depleting resources doesn't escalate conflict or further strain governance in those areas.

Most African countries rely predominantly on natural resources and primary production exports. Green industrialisation is vital to diversify and develop African economies and make them less dependent on resource extraction and fossil fuels. It will be impossible without energy access.

The EU and AU must ensure that competition over depleting resources doesn't escalate conflict or further strain governance in those areas

The AU and EU must show that they prioritise green economic transformation in their shared agenda. It should form the basis for EU and African engagement on energy transition and adaptation. They should map out the economic winners and losers of climate neutrality and jointly invest in capacity building and financing for long-term strategies.

A tense relationship

Relationships between Europe and Africa on climate-related issues are tense. This reflects a discord between developing and developed countries underpinned by the view that wealthy states are less concerned about poorer countries' climate risks, even though the latter contribute least to the problem. Developing nations bear the brunt of climate impacts and have the least resources to manage them. The green transition as it is currently proposed could hamper development for Africa.

These tensions were shown at the United Nations Climate Change Conference in Glasgow last year when African countries said wealthy nations had failed to keep their promise to raise US$100 million in climate finance. African needs are still widely unmet while the continent faces severe climate exposure with inadequate investment capacities. All this while it is still recovering from the COVID-19 crisis.

Cooperation between Africa and Europe on the green transition is vital. Separately, the AU and EU have made significant progress on their respective green agendas. The plans of both continents include many complementary visions and overarching goals for their green transitions. But the pathways to achieving them are fundamentally different, including energy transformation. AU and EU strategies must converge better to ensure the continent's development.

€150 billion

EU INVESTMENTS PROMISED FOR AFRICA

Comment: The ambiguities of subsidiarity

At its 14 January 2022 meeting, the AU Peace and Security Council (PSC) endorsed the Economic Community of West African States (ECOWAS) communiqué imposing additional economic and financial sanctions against Mali. This endorsement – after the fact – came in spite of several PSC member states noting that ECOWAS' decisions should not automatically be endorsed by the Council.

However, ECOWAS states' viewpoints prevailed as it has become a PSC habit to endorse regional economic communities (REC) decisions on crisis management. States' reservations reflect the ambiguities of subsidiarity and the contradictions of the AU legal framework on the relationship between Addis Ababa and regional economic communities.

An uneven legal framework

AU legal frameworks such as the Protocol establishing the PSC indicate the AU's responsibility for continental peace and coordinate the work of regional mechanisms. The protocol states that regional mechanisms are part of the AU's 'overall security architecture, whose primary responsibility is promoting peace, security and stability in Africa'. It further states that the AU Chairperson and PSC should harmonise and coordinate activities of regional peace, security and stability mechanisms to ensure their consistency with AU objectives and principles.

In 2007, a memorandum of understanding (MoU) on cooperation between the AU and regional mechanisms was adopted to supplement the protocol. The document reiterated the AU's primary responsibility, but also called for 'adherence to the principles of subsidiarity, complementarity and comparative advantage'.

An ambiguous concept

Subsidiarity, popularised by European Union (EU) community law, refers to a multilayered structure of various intervention levels. Typically, it means the upper level (e.g. the state) should perform only tasks that cannot be implemented at the lowest level (e.g. by local actors), implying the latter's primacy.

In the EU, the concept was introduced in the Maastricht Treaty, adopted in 1992. But it remained ambiguous. Jacques Delors, former European Commission president, defined it as 'decentralised organisation of responsibilities so as never to entrust to a larger unit what can be better achieved by a smaller one'. Advocates of primacy of states and promoters of the supranational project saw subsidiarity as strengthening their positions.

The AU legal framework entertains this ambiguity as it recognises the primacy of both continental and regional levels in peace and security. This

2007

ADOPTION OF AN MOU ON AU-RECS COOPERATION makes Africa's multilayered security governance even more complex as it adds another layer of responsibility (the RECs) between national states and the AU.

The confusion is exacerbated by subsidiarity being neither defined in the PSC Protocol, nor in the MoU. The unique AU legal document including a definition of subsidiarity is the Charter on Maritime Safety and Security and Development in Africa, which was adopted on 15 October 2016.

It states that 'subsidiarity refers to the principle of ensuring a degree of independence for a lower authority from a higher authority, or for a local authority from central government. It, therefore, implies the sharing of competence at different levels of authority'.

The AU legal framework entertains this ambiguity as it recognises the primacy of both continental and regional levels in peace and security

The issue with this definition is the gap with African institutional realities. It first assumes shared competences between the AU and RECs that do not exist. Also, underlining the independence of lower authorities implies an hierarchical relationship between the AU and RECs. This has been more than nuanced by the 2007 MoU and the daily working of the Architecture of Peace and Security in Africa (APSA).

RECs were established on legal, political and technical processes that did not necessarily involve the AU. While the AU is the continental organisation, the relationship is horizontal and networked, rather than vertical. An overview of the treaties establishing RECs barely makes reference to the primacy of the PSC in peace and security.

Growing primacy of APSA regions

The dynamics between the AU and RECs have transformed in recent years. Subsidiarity has gradually been used by RECs to assert their primacy in the management of crises. This situation has somehow led the PSC to almost systematically endorse decisions of regional bodies.

Regional politics also prevent some crises making it to the PSC agenda. A good illustration was the sidelining of the AU in the ongoing crisis in Mozambique. The deployment of the Southern African Development Community military mission was not endorsed by the PSC as it was not consulted beforehand.

While this empowerment of RECs is not an issue *per se*, some practicalities complicate the implementation of subsidiarity. One is the difficulty in identifying an acceptable threshold to escalate crisis management to the next level of responsibility. Most regional bodies are reluctant to enlist

15 Oct 2016

THE CHARTER ON MARITIME SAFETY INCLUDES SUBSIDIARITY

AU involvement or they reject it despite their lacklustre performance. The situation is hardly better between national and regional levels.

Nor does proximity necessarily mean effectiveness. Primacy of regional crisis management can be paralysed by strong divisions in the region. The East African Community's mediation of the 2015 political crisis in Burundi rendered it a victim of this dynamic among its partner states. In cases such as that of the Economic Community of Central African States, the regional advantage is not clear of, for example, dealing with the Cameroonian Anglophone regions crisis.

Subsidiarity is not necessarily AU-relevant

The lack of clarity around subsidiarity has induced inconsistency in the implementation of APSA. In reality, subsidiarity is out of step with the AU's multilayered governance of security matters. It can be said that the ongoing institutional reform reaches the same conclusion as it refers to the 'division of labour between the AU and RECs' rather than subsidiarity.

The decontextualised use of 'subsidiarity' leads to misunderstanding about the AU as an international organisation. Despite its integration rhetoric and ambitions, the AU remains, legally and politically, an intergovernmental organisation for cooperation. The AU is far from a supranational organisation that issues binding regulations as is the EU.

Despite its integration rhetoric and ambitions, the AU remains, legally and politically, an intergovernmental organisation for cooperation

Subsidiarity applies only when a community law emerges from supranational organisation binding decisions or there is common jurisdiction to settle disputes about the division of labour between levels of responsibility. This is hardly the case in the AU, where the protocol establishing the African Court of Justice and Human Rights has been ratified by eight of 55 member states.

Despite sharing the name union with its European model, the AU is closer to the United Nations than to the EU. Subsidiarity is more an aspiration and political discourse than a genuine policy. It often reflects immediate interests of competing organisations rather than being a clear-cut strategy of cooperation among them.

Subsidiarity

GRADUALLY BEEN USED BY RECS TO ASSERT THEIR PRIMACY

Given legal and political bases of current continental and regional bodies, cooperation rather than subsidiarity is the way to go for the next 20 years. Cooperation would enable mutual learning and trust. Relationships between the AU and RECs will become driven less by primacy and more by the need for effectiveness. This will take time and should not be subjected to the usual project timeframes. Only then will subsidiarity be achieved among the AU, RECs and national levels.

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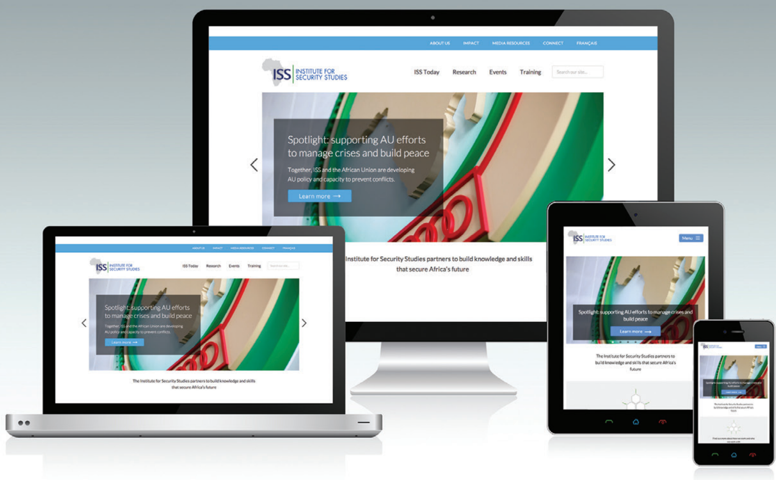

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The *Peace and Security Council Report* analyses developments and decisions at the African Union Peace and Security Council (PSC). The monthly publication is the only one of its kind dedicated to providing current analysis of the PSC's work. It is written by a team of ISS analysts in Addis Ababa.

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